

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3873 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MANAHARLAL P.DUDHREJA

Versus

CHAIRMAN, VANTHALI NAGAR PANCHAYAT

Appearance:

MR MD RANA for Petitioner

MS SEJAL K MANDAVIA for Respondent No. 1

None present for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/09/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The petitioner since deceased now represented by his heirs and legal representatives (hereinafter referred to as the petitioner) filed this special civil application and prayer has been made for direction to the respondents No.1 and 2 to fix the pay of the petitioner

in the pay scale of Rs.1400-2600 w.e.f. 1-1-1986 and to pay him the arrears together with the interest thereon. Another prayer has been made that the respondents No.1 and 2 may be directed to give the benefit of the pay scale of Rs.1200-2040 to the petitioner.

3. The petitioner retired from the services of the respondent No.1 on attaining the age of superannuation on 31st December, 1993 from the post of Shop-cum-Tax Inspector. The petitioner was in the pay scale of Rs.380-560 which has been revised to Rs.1200-2040. The District Panchayat as well as the respondents No.1 and 2 have prepared the necessary statement of giving the benefit of revision of the pay scale to the petitioner w.e.f. 1-1-1986. He was given the pay in the pay scale of Rs.1200-2040. Those orders passed by the respondents No.1 and 2 were not implemented as Local Audit Fund raised objections. Hence, this special civil application before this Court.

4. The counsel for the petitioner is unable to satisfy this Court that how the petitioner is entitled for the pay in the pay scale of Rs.1400-2600 w.e.f. 1-1-1986. In view of this fact, the claim of the petitioner for pay in the pay scale of Rs.1400-2600 deserves no acceptance.

5. So far as the claim of the petitioner for pay in the pay scale of Rs.1200-2040 from 1-1-1986 is concerned, it has been accepted by the respondents No.1 and 2, but the Local Audit Fund Officer raised objections. What were the objections have not been brought on record by the respondents. The petitioner also is at fault as he has not impleaded the person who was really answerable to all the grievances made by him in this special civil application. The petitioner impleaded the respondents No.1 and 2 who in fact had no objection in granting the petitioner the benefit in the pay scale of Rs.1200-2040 from 1-1-1986. At one point of time I considered it to be a case where the petitioner may be given the direction to implead the concerned Local Audit Fund Officer, but taking into consideration the fact that not only the petitioner retired long back, but he expired, I think that the interest of justice will be met in case this special civil application is disposed of with the direction to the Director of Accounts and Treasury at Ahmedabad who is stated to be the Head of Department of the Local Audit Fund Office to decide the matter in respect of claim of the petitioner for the benefit of pay scale of Rs.1200-2040 w.e.f. 1-1-1986 within a period of three months from the date of receipt of writ of this

order. In case the claim of the petitioner is accepted then necessary orders may be passed for giving of the benefits i.e. of the arrears of fixation of the pay as well as of revision of retirement benefits if he has received pension and other retirement benefits. The calculation of arrears of the salary/pay as well as of the revision of the pension and other retirement benefits has to be made within a period of three months and the amount so calculated has to be paid within one month next. In case the claim of the petitioner for the benefit of pay scale of Rs.1200-2040 w.e.f. 1-1-1986 is not acceptable then the Director of Accounts and Treasury, Ahmedabad shall pass a reasoned order and copy of the same may be sent to the petitioner No.1/1 herein i.e. Smt. Prabhavatiben Manharlal Dodhrejia residing at Lakhani Sheri, Joshipura, Junagadh by registered post A.D.. The office is directed to send a copy of this order to the Director of Accounts and Treasury, Ahmedabad. The special civil application and Rule stand disposed of in the aforesaid terms with no order as to costs.

zgs/-